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ANSWER

OF

ROBERT W. ARCHBALD

Additional Circuit Judge of the United States from the Third Judicial Circuit and designated a Judge of the Commerce Court

TO

THE ARTICLES OF IMPEACHMENT EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES

WASHINGTON
GOVERNMENT PRINTING OFFICE
1912

In the Senate of the United States,

July 29, 1912.

Ordered, That the answer of the respondent Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, and designated as one of the judges of the United States Commerce Court, to the articles of impeachment exhibited against him by the House of Representatives, be printed for the use of the Senate sitting in the trial of said impeachment.

Attest:

Charles G. Bennett, *Secretary.*

ANSWER OF JUDGE ARCHBALD.

In the Senate of the United States sitting as a Court of Impeachment for the trial of Robert Wodrow Archbald, a circuit judge of the United States.

ANSWER OF THE SAID ROBERT WODROW ARCHBALD TO THE ARTICLES OF IMPEACHMENT EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

ANSWER TO ARTICLE 1.

For answer to the first article the respondent says:

1. That the said first article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said first article.

2. The respondent admits that some time early in the spring of 1911 and prior to the 31st day of March of that year Edward J. Williams informed respondent that John M. Robertson owned an interest in the Katydid culm dump near Moosic, Pa., and that he, Williams, could get an option on Robertson's interest in said culm dump, and suggested to the respondent that if a similar option could be obtained from the Hillside Coal & Iron Co. for its interest in said Katydid culm dump the dump could be sold to advantage. At the same time said Williams suggested to the respondent that if both of said interests in the said dump should thus be acquired by respondent and himself a profit of two or three thousand dollars each to said Williams and the respondent could be made by a resale of said dump. At the same time said Williams suggested to respondent that he, the respondent, should communicate with Capt. William A. May, the superintendent of said Hillside Coal & Iron Co., to ascertain whether said company would sell its interest in said culm dump; and if so, on what terms.

The respondent thereupon, by telephone, inquired of Capt. May whether it would be possible to secure an option upon the dump in question from the Hillside Coal & Iron Co. Over the telephone said Capt. May informed the respondent, in substance, that it had been the ordinary policy of said company to keep its culm dumps, but that the circumstances relating to the Katydid culm dump were peculiar, and if the respondent would write a letter to him on the subject he would submit it to the Hillside Coal & Iron Co. Accordingly, on the 31st day of March, 1911, the respondent wrote and

handed to said Williams, to be by him delivered to Capt. May, a letter, of which the following is a copy:

W. A. MAY, Esq.,
Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump, belonging to the old Robertson & Law operation, at Brownsville; and, if so, will you kindly put a price upon it?

Yours, very truly,

R. W. ARCHBALD.

Several weeks thereafter, nothing having been heard by the respondent from Capt. May in response to said letter, and said Williams in the meantime having frequently called upon the respondent in reference to the matter, the respondent again, by telephone, inquired of Capt. May what had been done. Capt. May replied that Mr. G. A. Richardson, one of the vice presidents of the Hillside Coal & Iron Co., was to be in Scranton in a few days, and that he, May, would go over the matter with said Richardson, and would let the respondent know the result. During the greater part of the month of July the respondent was holding a circuit court of the United States in New York City, and spent the whole of that month in that city, except that he went home to Scranton at the end of each week. Up to this time there had been no reply received from Capt. May in regard to said proposed option, and said Robertson, the owner of the other interest, was not disposed to allow the verbal option, which he had given to said Williams, to remain open indefinitely. Upon being informed of this by said Williams, the respondent, on the 4th day of August, 1911, while in New York in performance of his duties as circuit judge, as above stated, called on George F. Brownell, at his office in New York City, said Brownell being then the general counsel of both the Erie Railroad Co. and of the Hillside Coal & Iron Co., the latter company being a subsidiary of the former company. The respondent called upon said Brownell, because he had been informed—by said Williams, as the respondent recollects—that the question of said Robertson's claim to an interest in the Katydid culm dump had been submitted to said Brownell. On that occasion the respondent informed said Brownell that he had called upon him because he understood that he, Brownell, had considered the question of Robertson's interest in the Katydid culm dump, and further told him that he, Robertson, had promised that he would sell his interest in said dump, and that if he, the respondent, could acquire the interest of the Hillside Coal & Iron Co. in said dump the conflict of interests which had theretofore interfered with any sale of said dump would be ended. Said Brownell thereupon took the respondent to the office of said Richardson in the same building, informing the respondent that said Richardson was the proper officer of the company to pass upon the matter. Said Brownell introduced the respondent to said Richardson. Respondent then stated to said Richardson that he, respondent, was there simply for the purpose of getting an early answer one way or the other from the Hillside Coal & Iron Co. to the request which had been made of that company for an option on its interest in the Katydid culm dump. Said Richardson then informed the respondent that he would communicate with Capt. May upon the subject. The respondent heard nothing further until on or about August 29, 1911,

when he casually met said Capt. May on the street in Scranton, and was then informed by Capt. May that the Hillside Coal & Iron Co. had decided to sell its interest in that culm dump and requested respondent to tell Williams to come and see him, May. The respondent immediately notified said Williams of this conversation with Capt. May, and on the following day, as the respondent is informed and believes, said Williams received from Capt. May a letter, in the words and figures following:

[Pennsylvania Coal Co.; Hillside Coal & Iron Co., New York; Susquehanna & Western Coal Co.; Northwestern Mining & Exchange Co.; Blossburg Coal Co. Office of the general manager.]

SCRANTON, PA., *August 30, 1911.*

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day, verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law, in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

The respondent admits that during the whole period covered by the negotiations and transactions hereinabove referred to he was a judge of the United States Commerce Court, duly designated and acting as such judge; that during the same period the Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, Nos. 38 and 39, in the United States Commerce Court; that said suit No. 38 was commenced by petition filed in said court April 12, 1911, and was heard by said court on May 17, 1911, on motion of the petitioners for a temporary injunction; that on May 22, 1911,, a temporary injunction was granted by said court in said case No. 38; that on June 13, 1911, the Interstate Commerce Commission appealed from the order granting said injunction to the Supreme Court of the United States; and that on June 16, 1911, the United States also appealed to the Supreme Court from said order; that the said suit No. 39 was begun by petition filed in the United States Commerce Court April 27, 1911; that a preliminary injunction was granted by said court on May 29, 1911; that on June 6, 1911, the Interstate Commerce Commission appealed from the order granting said injunction to the Supreme Court of the United States; and that on June 16, 1911, the United States also appealed to the Supreme Court from said order.

Respondent denies, except as hereinabove admitted, that he at any time or at any place, by correspondence or by personal conferences or otherwise, undertook to induce or influence or did induce or influence the officers of said Hillside Coal & Iron Co. or the officers of the Erie Railroad Co. to enter into any agreement to sell the interest of the Hillside Coal & Iron Co. in the Katydid culm dump. He denies that he willfully or unlawfully or corruptly or otherwise took any advantage of his official position as such judge to induce or influence

the officials of the said Erie Railroad Co. or of said Hillside Coal & Iron Co. to enter into any contract with him and the said Williams, or either of them. He denies that at the times and places stated in said first article, or at any other time or place, through the influence exerted by reason of his position as such judge, he willfully or unlawfully or corruptly or otherwise induced the officials in said Erie Railroad Co., or any of them, or the officials of the Hillside Coal & Iron Co., or any of them, to enter into any contract with him and the said Williams, or either of them.

Wherefore the said Robert W. Archbald denies that he is guilty of misbehavior as such judge or of any crime or misdemeanor as charged in said first article.

Answer to Article 2.

For answer to the second article respondent says:

1. That the said second article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor, as defined in the Constitution of the United States, and that the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said second article.

2. The respondent admits that, on the 1st day of August, 1911, he was a United States circuit judge duly designated as one of the judges of the United States Commerce Court, and that he was then a judge of said court. He further admits, on information and belief, that on said day the Marian Coal Co., a corporation, was the owner—as lessee—of a certain culm dump at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies, as defendants, charging them, the said defendants, with discrimination in rates and with excessive charges for the transportation of coal shipped by the Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce; and that the decision of said case by the Interstate Commerce Commission was subject to review at the instance of any party defendant thereto by the United States Commerce Court. The respondent further avers that at the same time there was pending before the Interstate Commerce Commission another case in which the Marian Coal Co. was complainant and the Delaware, Lackawanna & Western Railroad Co. alone was defendant. He further admits, on information and belief, that one Christopher G. Boland and one William P. Boland and their brother, one James M. Boland, were the owners of two-thirds of the stock in the said Marian Coal Co., and as to the operation of said company had all the powers which a control of the majority of the stock might legally give them, and that said Christopher G. Boland and said William P. Boland engaged one George M. Watson, an attorney at law, to endeavor to settle said cases then pending as aforesaid before the Interstate Commerce Commission, and certain other litigation in which the Marian Coal Co. was then involved, by selling to said Delaware, Lackawanna & Western Railroad Co. all the stock of the said Marian Coal Co. owned by the said Christopher G. Boland,

William P. Boland, and James M. Boland. As to the averment in said article 2 contained that at the time aforesaid there was pending in the Commerce Court a certain suit entitled Baltimore & Ohio Railroad Co. et al. *v.* Interstate Commerce Commission, No. 38, to which suit the Delaware, Lackawanna & Western Railroad Co. was a litigant, the facts are as follows: The said suit was commenced by petition filed April 12, 1911; was heard by said court on May 17, 1911, on motion of the petitioners for a temporary injunction; and on May 22, 1911, a temporary injunction was granted by the said court. On June 13, 1911, the Interstate Commerce Commission took an appeal from the order granting said injunction to the Supreme Court of the United States, and on June 16, 1911, the United States took an appeal from the said order to the Supreme Court.

The respondent denies that on the 1st day of August, 1911, or at any other time, he, for a consideration, agreed to assist George M. Watson, either to settle the aforesaid cases in which the Marian Coal Co. was complainant, then pending before the Interstate Commerce Commission, or to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the Marian Coal Co. Respondent avers the facts to be that on or about the said date said George M. Watson informed the respondent that he had been engaged as aforesaid by the said Christopher G. Boland and the said William P. Boland to endeavor to settle the litigation in question and also at the same time informed respondent that at the last hearing of said cases before the Interstate Commerce Commission, in which the Marian Coal Co. was complainant, there had been a suggestion of a possible settlement. Thereupon said Watson requested the respondent to communicate with Edward E. Loomis, who was vice president of the Delaware, Lackawanna & Western Railroad Co. (and with whom respondent was well acquainted), and tell said Loomis that if he would see said Watson there was a possibility of the case being settled. Pursuant to this request of said Watson the respondent, while in New York holding a circuit court of the United States, on August 4, 1911, saw said Loomis at his office in New York City and told him what said Watson had said, as above stated. Several weeks thereafter said Watson inquired of the respondent whether he had seen said Loomis, and upon being informed of what had taken place between the respondent and said Loomis, as above set forth, he, Watson, informed respondent that he had heard nothing from said Loomis, and said Watson then requested the respondent to again bring the matter to the attention of said Loomis. This occurred at Scranton, Pa., on August 22, 1911. On the day that this second request was made by said Watson as aforesaid, respondent, pursuant to the request of said Watson, saw said Loomis in Scranton and informed said Loomis that Watson had told respondent that he had heard nothing from any official of the Delaware, Lackawanna & Western Railroad Co. in regard to the matter in question. Said Loomis expressed surprise at this and told respondent that he had theretofore given directions to have Reese A. Phillips, an official of the Delaware, Lackawanna & Western Railroad Co., see said Watson on the subject. Following this, on several occasions, said Christopher G. Boland came to the office of the respondent to discuss the proposed settlement, informing the respondent that the troubles growing out of the litigation in which the Marian Coal Co. was then involved

were so preying upon his brother, William P. Boland, that he was afraid that the latter's mind might be affected, and he urged the respondent for that reason to endeavor to bring about the proposed settlement. On or about September 27, 1911, said Loomis, referring to the interview between him and the respondent, of August 22, 1911, above mentioned, wrote to the respondent a letter of which the following is a copy:

SEPTEMBER 27, 1911.

Judge R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am,

Very truly, yours,

E. E. LOOMIS.

On September 28, 1911, the respondent wrote and sent to said Loomis a letter, of which the following is a copy:

[R. W. Archbald, judge United States Commerce Court, Washington.]

SCRANTON, PA., *September 28, 1911.*

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment, I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible.

Yours, very truly, R. W. ARCHBALD.

On September 30, 1911, said Phillips called upon the respondent and stated that the Delaware, Lackawanna & Western Railroad Co. could not make any substantial offer to the Marian Coal Co. to settle the controversies between the two companies for the reason that the property of the Marian Coal Co. had comparatively little value.

On October 3, 1911, the respondent, at the request of said Watson, wrote and sent to said Loomis a letter in the following words:

UNITED STATES COMMERCE COURT,
Washington, October 3, 1911.

E. E. LOOMIS, Esq.,
Vice President Delaware, Lackawanna & Western,
90 West Street, New York City.

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland case with Mr. Watson upon a somewhat different basis than Col. Phillips could, representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly, R. W. ARCHBALD.

On the 6th day of October, 1911, while the respondent was in the city of Washington, in attendance upon the Commerce Court, he re-

ceived from said Watson a telegram, of which the following is a copy:

Hon. R. W. ARCHBALD,
Judge, Court of Commerce, Washington, D. C.:

Wire me East Stroudsburg what time to-morrow I can meet you in Washington.

G. M. WATSON.

To this telegram the respondent replied by telegram as follows:

GEORGE M. WATSON,
East Stroudsburg, Pa.:

Almost any time you wish.

R. W. ARCHBALD.

Pursuant to this telegram said Watson did come to Washington and saw the respondent on October 7, 1911. Said Watson then told the respondent that he had come to Washington to see the respondent at the express request of William P. Boland and Christopher G. Boland, to see whether something further could not be done in the matter of the proposed settlement, to which the respondent had nothing to suggest. As to what further conversation took place between the respondent and said Watson with regard to the said matter at that time the recollection of the respondent is too indistinct to enable him to make any averment, except that he can and does say that if anything further of importance had occurred he would remember it. On the same day, at the request of said Watson, the respondent obtained and gave to him a printed copy of the petition in the case of the Lehigh Valley Railroad Co. *v.* The United States, being No. 49 on the docket of the United States Commerce Court, a case known as the Meeker case, in which the Interstate Commerce Commission had rendered a decision which had a distinct bearing on one of the principal questions involved in the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co.

On or about November 13, 1911, at the suggestion of either said Christopher G. Boland or of said Watson, the respondent again saw said Loomis in Scranton and requested him to make an offer of some kind for the property of the Marian Coal Co., or for the interest of said Bolands in that company, by which all the litigation in which said Marian Coal Co. and said railroad were involved could be amicably settled. This endeavor was fruitless, and respondent immediately so notified said Christopher G. Boland by writing and sending to him a letter, of which the following is a copy.

SCRANTON, PA., *November 13, 1911.*

C. G. BOLAND, Esq., *Scranton, Pa.*

MY DEAR CHRISTY: I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side, but he seemed to feel that the amount which he would be willing to offer was so inconsiderable that it was hardly worth the while. I regret to report this as the final outcome of the efforts of settlement which have been made, but I see nothing to be attained any further here.

I return herewith the papers which you let me have.

Yours, very truly, R. W. ARCHBALD.

The foregoing is, in substance, a statement of all that respondent had to do with the attempted settlement of the litigation referred to. In all that respondent did in the matter he acted as the friend of

said Watson and as the friend of said Christopher G. Boland. Respondent never received from any source whatever any suggestion that he was to be compensated in any way, directly or indirectly, for his attempt to bring about an amicable adjustment of the litigation in question, and in all that the respondent did in that regard he acted without any intention or expectation of receiving or asking for any compensation or reward. Respondent denies that at the times and places mentioned in said second article, or at any other time or place, he willfully or unlawfully or corruptly or otherwise used his influence as a circuit judge or as a judge of the United States Commerce Court to attempt to settle said cases of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., or to sell or bring about the sale of any stock of the Marian Coal Co. to said railroad company.

Wherefore the said Robert W. Archbald denies that he was and is guilty of misbehavior as such judge or of a high crime and misdemeanor in office, as charged in said second article.

Answer to Article 3.

For answer to the third article the respondent says:

1. That the said third article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said third article.

2. Respondent admits that on or about October 1, 1911, he was United States circuit judge and a judge of the United States Commerce Court, and that the Lehigh Valley Coal Co., a corporation, was practically owned by the Lehigh Valley Railroad Co., which latter company was and is a common carrier engaged in interstate commerce. He further admits that on or about said date said Lehigh Valley Railroad Co. was a party litigant in certain suits then pending in the United States Commerce Court, as stated in said second article, except that as to the pendency of the said suit No. 38, the facts are as follows: Said suit was commenced by petition filed in said court on April 12, 1911. On May 17, 1911, a motion for a temporary injunction was argued, and on May 22, 1911, said injunction was granted. On June 13, 1911, the Interstate Commerce Commission appealed from the order granting said injunction to the Supreme Court of the United States, and on June 16, 1911, the United States appealed from said order to the Supreme Court. At the time in question respondent knew that said railroad company was a party to said suits pending in the Commerce Court. As to the charge contained in said third article that on or about said last-mentioned date he, the respondent, secured from the Lehigh Valley Coal Co. an agreement which permitted him and his associates to lease a culm dump known as Packer No. 3, near Shenandoah, Pa., this respondent states that the facts are as follows: Said culm dump known as Packer No. 3 was owned by the city of Philadelphia as trustee under the will of Stephen Girard, deceased, which trust was administered through a body known as the board of city trusts. Prior to October 1, 1911, said board of city trusts had leased said Packer No. 3 culm dump, with a large amount of other property, to the Lehigh

Valley Coal Co., which lease at that time had about two years to run. It is true that on or about September 28, 1911, at the request of the respondent, the said Lehigh Valley Coal Co. agreed (as respondent understood) that so far as it was concerned it would make no objection to the said board of city trusts leasing to the respondent and his associates said Packer No. 3 culm dump for a term beginning before the expiration of said lease to it, upon several conditions, one of which was that a certain royalty should be paid to the Lehigh Valley Coal Co. for any coal that might be taken from said dump, in addition to the royalty which should be payable to the said board of city trusts, and another of which was that any coal that should be taken from said culm dump should be shipped over the tracks of the Lehigh Valley Railroad Co.

Respondent avers that he and his associates subsequently arranged with certain coal commission men that if said dump should be acquired by the respondent and his associates, the coal to be taken therefrom, after being washed and prepared for market, should be sold to said coal commission men at the dump. The respondent, however, admits that it was his understanding that the coal, by whomsoever sent to market, would have to be shipped over the Lehigh Valley Railroad Co. lines.

As to the averment of said third article that said Packer No. 3 dump contained 472,670 tons of coal, respondent says he has even now no absolute knowledge. His information at the time of the negotiations in question, from one source, was that it contained "about three or four hundred thousand tons," and his information from another source was that it contained a much less quantity.

This respondent denies that in what he did in reference to said Packer No. 3 culm dump, as above set forth, he unlawfully or corruptly or otherwise used his official position or his official influence, as such judge, to secure from the Lehigh Valley Coal Co. said agreement or any agreement.

Wherefore the said respondent denies that he was and is guilty of misbehavior as such judge, or of a misdemeanor in such office, as charged in said third article.

Answer to Article 4.

For answer to the fourth article, the respondent says:

1. That the said fourth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said fourth article.

2. The respondent admits that, prior to the 4th day of April, 1911, there was pending in the United States Commerce Court the suit of Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission; that that suit was argued before the United States Commerce Court on the 4th day of April, 1911, and that afterwards, on the 22d day of August, 1911, while said suit was still pending in said court and before the same had been decided and while he, the respondent, was a member of the United States Commerce Court, he wrote to Helm Bruce, who was one of the attorneys for the said Louisville & Nashville Railroad Co., a letter, in which he requested

said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that said witness had given before the Interstate Commerce Commission, and communicate the same to respondent. This letter was written in the endeavor to ascertain the position taken by witness and counsel in regard to what seemed at the time to the respondent to be an ambiguity in the testimony of the said witness, the true construction and meaning of which appeared to the respondent from his study of the case to be contrary to that which had been put upon it by the Interstate Commerce Commission. After receiving the answer of the said Helm Bruce, upon a further consideration of the case, taking the evidence as it stood, without reference to the explanation contained in the letter, the conclusions deduced by the Interstate Commerce Commission were held in the opinion of the court to be unwarranted. As throwing some light upon the matter, however, the respondent inserted the letter in the record at the place in the testimony to which it referred, so that all parties might know and have the benefit of it.

Respondent further admits that afterwards, on the 10th day of January, 1912, while said suit was still pending and before the same had been decided by the United States Commerce Court, he, the respondent, wrote to the said Helm Bruce another letter, in which he said that other members of the United States Commerce Court had discovered evidence in the record with regard to another matter apparently contrary to the statements and contentions made by said attorney, and requested said attorney to make an explanation and answer thereto. This letter was written under the following circumstances:

Upon examination of the evidence by the court after the arguments were closed a fact was apparently discovered tending to support one of the conclusions of the commission, which is thus stated in the opinion of the dissenting judge:

> For example, the view taken by the commission of the Cooley adjustment is fully justified, in my judgment, by the fact that the relation of rates thereby established in 1886 was departed from not as to some, but as to a great many, commodity rates, and that, too, at many times. * * *

Upon this fact an argument adverse to the petitioner was advanced. This fact had not been noticed by the commission or by counsel, and it seemed to the respondent that counsel for the petitioner ought, in fairness and in the interest of justice, to have an opportunity to answer the argument. To give him this opportunity the letter was written.

Respondent denies that in writing or sending either of said letters to said Helm Bruce he was guilty of gross or improper conduct or of a misdemeanor as a circuit judge or as a member of the Commerce Court. He denies that in any proper sense either of said letters was written secretly or wrongfully or unlawfully. He admits that in so far as he was aware the fact that either of said letters was so written was not made known to the Interstate Commerce Commission or its attorneys at the time it was so written. But in this connection he avers that in their briefs and also in the oral argument of the case the counsel for the Interstate Commerce Commission and the counsel for the United States had distinctly declined to discuss any question relating to the details of the evidence, insisting

that the Commerce Court had no right to look into the evidence in the case.

The respondent admits that said Helm Bruce complied with the request contained in each of said letters to him.

Wherefore the respondent denies that he was and is guilty of misbehavior in office or was and is guilty of a misdemeanor, as charged in said fourth article.

Answer to Article 5.

For answer to the fifth article the respondent says:

1. That the said fifth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said fifth article.

2. The respondent avers that some time in November, 1911, he was informed by one Frederick Warnke, whom he had known for a number of years, that a year or two before that time he—Warnke—had been engaged in a coal operation in Schuylkill County, Pa., under a lease which had been executed by the Philadelphia & Reading Coal & Iron Co., as lessors, to other parties, from whom he, the said Warnke, had purchased it; that the said lease included an underground mine and a surface washery, and after having been operated by the said Warnke for some time, during which the washery was burned down and had been rebuilt by the said Warnke, the said Philadelphia & Reading Coal & Iron Co., through W. J. Richards, its general manager, had refused to further recognize his rights thereto, on the ground that said lease was nonassignable. The said Warnke further represented that he had invested in this operation a large amount of money, which he would lose unless his rights should be recognized by said company; and he therefore asked the respondent whether he would not see the said Richards and endeavor to have him recognize Warnke's rights. He further said to the respondent that if he should not be allowed to operate the said mine under the said lease he would be satisfied if he could get from the said Philadelphia & Reading Coal & Iron Co., through the said Richards, a lease of the so-called Lincoln culm dump, which, he said, the Philadelphia & Reading Coal & Irion Co. apparently cared little about, as it was covering said dump with rock and other refuse which would seriously and permanently injure it. Solely out of friendship for said Warnke, and because of the serious financial loss which was likely to result to him, the respondent acceded to this request, and on November 24, 1911, arranged with said Richards to meet him at Pottsville, Pa., on November 28 following, on which day the respondent was to be in Pottsville on other business. Accordingly on the last-mentioned day respondent met said Richards in Pottsville and presented the request of Warnke as above set forth. Said Richards informed respondent that the matter had already been fully considered, in response to requests from several other persons, and that neither of Warnke's requests could be granted, as Warnke had already been told. Respondent did nothing further in this matter except to report the interview to Warnke.

At the time of said interview respondent did not know, as charged in said article, that the general policy of said company was adverse to the leasing of any of its culm banks; that any communication had been had with George F. Baer, president of said company, with regard to it; or that Warnke had made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; or that anything had ever been said to any official of the said company with regard to a lease of any kind to Warnke of the Lincoln culm dump; but respondent is now informed of these facts and believes and admits them to be true.

Respondent further admits that on November 1, 1911, and thereafter until the present time, he was a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court. Respondent also admits that the Philadelphia & Reading Railroad Co. is a common carrier engaged in interstate commerce, but whether the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., and whether the last-named company owns the entire capital stock of the Philadelphia & Reading Railroad Co.. as averred in said article, he does not know, but has no reason to doubt or deny. At the times aforesaid, however, respondent knew that there was an intimate relation between the said companies.

Respondent denies that he wrongfully or otherwise attempted to use or did use his influence as such judge to aid or assist the said Frederick Warnke to secure a lease of any kind of the Lincoln culm dump or in any of the matters above referred to.

Except as above admitted, respondent at the times above referred to had and now has no knowledge of and no information sufficient to form a belief of the truth of the other matters set forth in the first and second paragraphs of said fifth article.

Respondent denies that at the time referred to in the third paragraph of said fifth article or at any other time he willfully, unlawfully, or corruptly, or otherwise accepted as a gift, reward, or present from the said Frederick Warnke, in consideration of favors shown by the respondent to said Warnke in the effort to effect a settlement or agreement with the Philadelphia & Reading Railroad Co. and the Philadelphia & Reading Coal & Iron Co., or either of them, or for other favors shown by respondent to said Frederick Warnke, a certain promissory note for $500, executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member, as the same is averred in the said fifth article. The respondent avers the fact to be that, with one John Henry Jones, he afterwards rendered services in bringing about the sale by the Lacoe & Shiffer Coal Co. of a certain culm bank, known as the Old Gravity Fill, to the Premier Coal Co., with which last-named company said Warnke was connected, and that a note for $510, made by said Premier Coal Co. and indorsed by said Warnke and other persons connected with said Premier Coal Co., was given to the respondent and said Jones as compensation for such services so rendered by them.

Wherefore respondent denies that he was and is guilty of misbehavior as a judge or of high crimes or misdemeanors in office, as charged in said fifth article.

ANSWER TO ARTICLE 6.

For answer to the sixth article the respondent says:

1. That the said sixth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said sixth article.

2. That while respondent denies that on or about the 1st day of December, 1911, or at any other time, he unlawfully or improperly or corruptly or otherwise attempted to use his influence as a circuit judge or as a judge of the United States Commerce Court with the Lehigh Valley Coal Co. and the Lehigh Valley Railroad Co., or with either of them, to induce the officers of said companies, or either of them, to purchase any interest belonging to persons known as the Everhardt heirs in any tract of coal land containing 800 acres, or to purchase any interest in any tract of land, respondent is advised and avers that said article is general, vague, and indefinite with regard to the offense sought to be charged therein; that it does not sufficiently inform respondent in what respect he is intended to be charged as having attempted to use his influence as United States circuit judge and judge of the United States Commerce Court with the Lehigh Valley Coal Co. and the Lehigh Valley Railroad Co., in that it does not state in what said attempts consisted or with what officers or agents of said company, or either of them, or under what circumstances the alleged attempts were made, and does not in any other way give respondent such information as to the real charge intended to be made against him in the said sixth article as will enable him to prepare for trial thereon.

Wherefore the respondent prays that said sixth article shall be adjudged to be null and void and that the same shall be dismissed.

ANSWER TO ARTICLE 7.

For answer to the seventh article the respondent says:

1. That the said seventh article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said seventh article.

2. Respondent admits that during the months of October and November, 1908, there were pending in the United States Circuit Court for the Middle District of Pennsylvania, in the city of Scranton, Pa., over which court the respondent was then presiding, several actions at law wherein a corporation called the Old Plymouth Coal Co. was plaintiff and certain fire insurance corporations were defendants.

Respondent avers that said suits were commenced by the plaintiff in the court of common pleas of Luzerne County, in the State of Pennsylvania, and on October 3, 1908, on petition of the defendants, were removed to the Circuit Court of the United States for the Middle District of Pennsylvania.

On November 18, 1908, said suits came on to be tried before respondent sitting as trial judge, and a jury, all the suits being tried

together, at which time one John T. Lenahan appeared as one of the attorneys for the plaintiff. After the plaintiff's evidence was presented, the defendants moved for a nonsuit. Respondent, as trial judge, denied said motion. Defendants thereupon introduced evidence, before the conclusion of which, on November 21, 1908, an agreement of settlement was reached of all the suits. The jury was thereupon dismissed, and consent judgments for the plaintiff were entered on November 23, 1908. The judgment in the suit against one company, known as the Pacific Fire Insurance Co. of the City of New York, was for $2,500, to be discharged upon the payment of $2,129.63 within 15 days from November 23, 1908. Similar judgments in varying amounts were entered against the other companies.

At the time of said trial, and for some time before, respondent knew that W. W. Rissinger and his brother owned the principal part of the stock of the Old Plymouth Coal Co.

On or about November 28, 1908, at W. W. Rissinger's request, respondent indorsed a note for $2,500 made by said Rissinger and also indorsed by Sophia J. Hutchinson, which said note was indorsed by respondent solely for the accommodation of the said Rissinger, for the purpose of enabling said Rissinger, by discounting the said note, to raise money to use for his own purposes. This note was discounted by the County Savings Bank, of Scranton, and the whole of the proceeds received by said Rissinger, and has been renewed from time to time with respondent's indorsement, the discount being paid by the said Rissinger; and the last renewal is still outstanding. As to the averment contained in said seventh article that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of the respondent, presented said note to the said John T. Lenahan for discount, respondent says that he has no personal knowledge as to the facts, and that if said note was so presented to the said Lenahan for discount it was without the knowledge, consent, or authority of respondent.

Respondent denies that on or about November 1, 1908, or at any other time, he entered into any agreement with said W. W. Rissinger in relation to the purchase of stock in any gold-mining scheme in Honduras or elsewhere which was in any sense wrongful or corrupt. He admits that beginning in September, 1908, he had conversations with said Rissinger and others in reference to a mining scheme in Honduras and that the negotiations between him, Rissinger, and other persons were pending at the time of the trial of said cases. He further admits that three months after said note was executed, to wit, in February, 1909, he received from said Rissinger certificates representing stock in a corporation organized by said Rissinger and others for the purpose of operating a gold-placer mine in Honduras. Respondent further avers that when he so indorsed said note he understood that he was indorsing it, as hereinbefore stated, solely for the accommodation of said Rissinger, and that when he subsequently received from said Rissinger said certificates of stock, they were given him only as collateral security for his liability as indorser of said note. Respondent has recently learned, however, that said Rissinger claims that the agreement between him and the respondent was that the respondent should purchase stock to the amount of one-third of said note, and that respondent was to be liable for one-third of the note, and that he received such certificates of stock not

as security, but as the owner thereof. To the best of the respondent's present knowledge and belief, there was a misunderstanding between said Rissinger and himself, as indicated above, when said note was indorsed and said stock delivered to respondent. Respondent further avers that whether the understanding of respondent or the understanding of said Rissinger with regard to said transactions is correct, the transactions have no relevancy whatever to the judicial action of the respondent in the trial of said cases. In the ruling which he made during the trial of said cases referred to in said seventh article, he acted solely upon his judgment as to the merits of the question which had been submitted to him in the motion for a nonsuit.

Wherefore respondent denies that any of said acts on his part were improper or unbecoming, and denies that said acts or any of them constituted misbehavior in his said office as judge, and denies that any of them render him guilty of a misdemeanor.

Answer to Article 8.

For answer to the eighth article, the respondent says:

1. That the said eighth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said eighth article.

2. Respondent admits that during the summer and fall of the year 1909 there was pending in the United States Circuit Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the respondent was presiding as the duly appointed judge thereof, a civil action involving a large sum of money, wherein the Marian Coal Co. was defendant. He further admits on information and belief that the said Marian Coal Co. was a corporation and that two-thirds of the stock of said company was owned and controlled by one William P. Boland and one Christopher G. Boland and one James M. Boland. He admits that while said suit was so pending, one John Henry Jones signed a note for $500 payable to the order of the respondent, which note the respondent then indorsed, and that said note was prepared for the signature of the said John Henry Jones by the respondent. As to the averment contained in said eighth article that during the pendency of said suit he, the respondent, wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland or one of them for the purpose of having the said note discounted, respondent says that the facts are as follows: Said note was indorsed by respondent solely for the accommodation of said Jones, to be discounted for his sole benefit, and it was so discounted by the Providence Bank of Scranton. When respondent indorsed said note he had no knowledge or concern where or by whom it was to be discounted. He did not at any time know to whom it had been or would be presented for discount, except that said Jones, at some time after it was executed and indorsed, respondent is uncertain when, told respondent that one Edward J. Williams, who was interested with Jones in the enterprise for which the money was to be

raised, thought that Christopher G. Boland would discount the note because, as he, Williams, claimed, said Christopher G. Boland was indebted to him in a considerable sum of money on account of another transaction, and except also that respondent had a conversation with reference to the discounting of said note by said Providence Bank with one Charles H. Von Storch, the president of said bank. Whether at the time in question respondent knew that Christopher G. Boland was a stockholder in the Marian Coal Co. and interested in the suit against said company then pending in said court, respondent can not now recollect. He does now admit the fact to be that said Christopher G. Boland was at that time so interested in said suit.

The respondent admits that when he was informed, as above stated, that said note might be presented to Christopher G. Boland for discount, he made no comment. If, before that time, he had learned that said Christopher G. Boland was interested in litigation in the court over which respondent was then presiding, that fact did not recur to his mind at that time. The respondent denies that in any proper sense he ever wrongfully agreed or consented that said note should be presented to said Christopher G. Boland for discount, and he denies that he ever, in any way, agreed or consented that said note should be presented to said William P. Boland for discount.

Wherefore the respondent denies that he was guilty of gross misconduct in his office as judge or was and is guilty of a misdemeanor in his said office as judge, as charged in said eighth article.

Answer to Article 9.

For answer to the ninth article, the respondent says:

1. That the said ninth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a court of impeachment, should not further entertain the charge contained in said ninth article.

2. Respondent admits that on or about December 3, 1909, while he was United States district judge in and for the middle district of Pennsylvania, in the city of Scranton, he, in the city of Scranton, wrote a promissory note in the sum of $500 payable to himself, which said note was signed by one John Henry Jones and indorsed by the respondent for the purpose of having the same discounted. He avers that said note was indorsed by him solely for the accommodation of said John Henry Jones, and that said note is the same note which is referred to in the eighth article. Respondent admits that shortly afterwards said John Henry Jones presented said note for discount to one Charles H. Von Storch, who was then president of the Providence Bank in Scranton. He further admits that thereupon said Von Storch by telephone inquired of the respondent whether he, the respondent, had indorsed said note, and he, the respondent, replied to that inquiry in the affirmative; and that thereupon said Von Storch caused said bank to discount said note. Respondent further admits that said Von Storch at the time in question was an attorney at law, but he avers that to the best of his recollection and belief said Von Storch had never appeared as an attorney in any case before the respondent as a United States judge prior to the time said note

was so discounted. He admits that nearly a year before the presenting of said note to said Von Storch as aforesaid a suit in the circuit court of said district presided over by the respondent, in which said Von Storch was a party defendant, was decided in favor of the defendants upon a ruling made by the respondent. The respondent denies that at the time of said transaction he knew that his indorsement would not secure money in the usual commercial channels, and denies that he wrongfully permitted said John Henry Jones to present said note for discount to said Von Storch, and denies that he wrongfully or improperly or otherwise used his influence as such judge to induce said Von Storch to discount said note. On information and belief the respondent admits that said note was discounted by said bank at or about the time of his said conversation by telephone with said Von Storch, and that it has been renewed from time to time for the same amount, except that $25 has been paid thereon by said Jones. He admits that the last renewal is still due and owing.

Wherefore the respondent denies that he was or is guilty of gross misconduct in his said office, or was and is guilty of a misdemeanor in his said office as judge, as charged in said ninth article.

Answer to Article 10.

For answer to the tenth article the respondent says:

1. That the said tenth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said tenth article.

2. Respondent admits that throughout the year 1910 he was United States district judge in and for the middle district of Pennsylvania. As to the averments of the tenth article relating to the alleged receipt of a large sum of money by the respondent from one Henry W. Cannon, respondent denies every allegation of said article except as the same is herein expressly admitted. The facts with regard to the matter are as follows: Said Henry W. Cannon and the wife of this respondent, Elizabeth C. Archbald, are full cousins, in that Benjamin Cannon, father of the said Elizabeth, was full brother to George Cannon, father of said Henry W. Cannon.

On March 23, 1910, Mrs. Archbald received from her cousin, said Henry W. Cannon, of New York City, a letter inviting her to take a trip to Europe at his expense and in his company, for the purpose, among other things, of visiting him at his residence near Florence, Italy, and suggested the respondent's daughter, Mrs. Anna Silvey, as a companion. It was stated in said letter that the writer supposed that respondent would not be able to accompany Mrs. Archbald, on account of his judicial work, but it was intimated that if the fact was otherwise, he, the said Henry W. Cannon, would be glad to have respondent accompany Mrs. Archbald in place of their daughter. It was necessary that said Elizabeth C. Archbald while traveling should have a companion, because she was in ill health. Respondent had had no vacation for six or seven years prior to that time. Upon consultation with the other judges of the circuit he found that he could be excused from service without detriment to the work of his

district, and thereupon respondent, with Mrs. Archbald, accepted the invitation. On April 16, 1910, respondent and Mrs. Archbald sailed, with said Henry W. Cannon, from New York on the steamship *Kaiserin Augusta Victoria*, traveled with him in Europe, and visited him at his residence in Florence, being gone nearly three months and returning with him to the United States on July 8 following.

When said invitation was given and accepted, and when said trip was made by the respondent and his wife with said Henry W. Cannon, as his guest, respondent knew that said Henry W. Cannon was a director in the Great Northern Railway Co., and that he was president either of the Pacific Coast Co. or the Pacific Coast Steamship Co., respondent is not sure which, and that the company of which said Henry W. Cannon was president was engaged, among other things, in the mining of coal on the Pacific coast of the United States.

The respondent, when he went with his wife on said trip, did not know that said Henry W. Cannon held the other positions with corporations referred to in said tenth article, and he has no knowledge on that subject now. In this connection the respondent avers that at the time he and his wife made said trip with said Henry W. Cannon at the expense of the said Cannon, the respondent was district judge of the United States for the middle district of Pennsylvania, but that the United States Commerce Court had not then been created, and that respondent had no knowledge or information that any corporation with which said Henry W. Cannon was connected or in which he was interested as officer or stockholder had or was likely to have litigation in the courts in which respondent presided. The respondent denies that the acceptance by him while holding said office of United States district judge of "said favors" from said Henry W. Cannon was improper, and denies that it had a tendency to bring his said office of district judge into disrepute, and denies that it did bring his said office of district judge into disrepute.

Wherefore the respondent denies that he was or is guilty of misbehavior in office, and denies that he was or is guilty of a misdemeanor, as charged in said tenth article.

Answer to Article 11.

For answer to the eleventh article the respondent says:

1. That the said eleventh article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor, as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in the eleventh article.

2. Respondent admits that while holding the office of United States district judge in and for the middle district of Pennsylvania on the 16th day of April, 1910, he received and accepted the sum of $525, which was contributed and given to the respondent by various attorneys who were practitioners in the court presided over by the respondent. He avers that the fact that said sum of money or any sum of money was being so raised was unknown to him until the day that he and his wife sailed from New York to go to Europe on the trip referred to in the next preceding article, when it was handed to him in a sealed envelop by Alonzo T. Searle just as the vessel on which respondent was sailing was about to start on its journey across

the ocean. Said Searle had formerly been an assistant United States district attorney for the middle district of Pennsylvania, and at the time in question was a member of the judiciary of the State of Pennsylvania. He was one of the persons who contributed to said fund. Said envelope was handed to respondent by said Alonzo T. Searle with the request that it should not be opened until after the vessel had sailed, with which request respondent complied. As to the averments of said eleventh article relating to the manner in which said money was raised, this respondent says that he has no such knowledge or information as enables him to either admit or deny the same. He admits that Edward R. W. Searle, at the time in question, was clerk of the United States District Court for the Middle District of Pennsylvania; that at that time J. B. Woodward was jury commissioner of said court; and that each of them received his appointment to his said office from the respondent.

With one or two exceptions, the persons who were mentioned in the envelope as having contributed to the said fund were close personal friends of the respondent, and the gift was understood by the respondent to be a testimonial of their friendship and regard and was received by him in the spirit of friendship in which he supposed it had been given. The gift could not have been refused without impugning the motives of the givers.

Wherefore the respondent denies that he was or is guilty of misbehavior in office, and denies that he was or is guilty of a misdemeanor, as charged in said eleventh article.

Answer to Article 12.

For answer to the twelfth article, the respondent says.

1. That the said twelfth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor, as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said twelfth article.

2. Respondent admits to be true each and every averment of the twelfth article, except that he denies that at the time he appointed said J. B. Woodward a jury commissioner, as set forth in said article, he knew that said Woodward was a general attorney for the Lehigh Valley Railroad Co. The respondent first learned that fact several years after said Woodward was so appointed.

Further answering said twelfth article, respondent says that, by section 2 of an act of Congress approved June 2, 1879 (21 Stat. L., p. 43), which act was in force until the adoption by Congress of the judicial code, on March 3, 1911, and is continued in force by section 276 of said code (36 Stat. L., p. 1164), it was provided that, in drawing jurors for the Federal courts in the State of Pennsylvania, said jurors should be drawn from a box containing the names of not less than 300 persons, which names, the statute provides, "shall have been placed therein by the clerk of such court and a commissioner to be appointed by the judge thereof, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well-known member of the principal political party in the district in which the court is held opposing that to which the clerk may belong." The middle district of Pennsylvania was created

by act of Congress approved March 2, 1901 (31 Stat. L., p. 880), and was made up of 32 counties, of which 21 counties were taken from the western district of Pennsylvania and 11 counties from the eastern district. That portion of said middle district in which the city of Scranton is situated was taken from the western district. It had been the custom and practice for a long period of years, in both the eastern and the western districts of Pennsylvania, to select a member of the bar as jury commissioner to serve with the clerk. Soon after the creation of the middle district of Pennsylvania Edward R. W. Searle, who was a Republican in politics, was appointed clerk of the district court for that district by the respondent. It thereupon became the duty of the respondent to appoint a Democrat as jury commissioner of that district. The respondent had known J. B. Woodward, who was a well-known Democrat, intimately and favorably for many years, and, conforming to the custom which had theretofore obtained in said eastern and western districts, and believing that said Woodward would discharge the duties of jury commissioner faithfully and intelligently, and exercising his best judgment in the premises, the respondent appointed said J. B. Woodward for those reasons and for none other.

Wherefore respondent denies that he was or is guilty of misbehavior in office and denies that he was or is guilty of a misdemeanor, as charged in said twelfth article.

Answer to Article 13.

For answer to the thirteenth article the respondent says:

1. That the said thirteenth article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that therefore the Senate, sitting as a Court of Impeachment, should not further entertain the charge contained in said thirteenth article.

2. Respondent is advised and avers that in and by said article it is attempted to combine two distinct and independent charges, depending upon different facts and to be supported and met by the evidence of different witnesses, and that to combine the same in one article operates to the serious prejudice of the respondent not only by embarrassing him and his counsel in his defense, but in preventing him from obtaining the separate judgment of the Senate upon each of such alleged offenses.

Wherefore the respondent prays that the said thirteenth article be adjudged to be null and void and that the same shall be dismissed.

3. The respondent is further advised and avers that said article is general, vague, and indefinite with respect to the first offense sought to be charged therein, to wit, the obtaining of credit from persons interested in suits pending in the courts over which respondent presided, and does not give respondent such information as to the nature and character of the charge intended to be made against him as will enable him to prepare for trial thereon in that it does not inform the respondent at what times or at what places or from what persons or under what circumstances or in what way it is intended to charge that the respondent obtained credit, and that to require the respondent to further answer said charge would not be agreeable to law or justice.

Wherefore the respondent prays that he be not required to further defend against the said first charge attempted to be made in the thirteenth article.

4. Not waiving, but insisting, upon each of his foregoing objections to the thirteenth article, but being unwilling to appear to admit even by implication the truth of the charges attempted to be made in said article, the respondent states as follows:

As to the first charge attempted to be made in said thirteenth article, he admits that on the 29th day of March, 1901, he was duly appointed United States district judge for the middle district of Pennsylvania, and that he held such office until the 31st day of January, 1911, when he was duly appointed United States circuit judge and designated as a judge of the United States Commerce Court. Respondent denies that at any time or place he sought wrongfully or otherwise to obtain credit from or through any person or persons interested in any court over which he presided or of which he was a member.

As to the second charge attempted to be made in said thirteenth article, the respondent denies that on the 31st day of March, 1911, or at any other time or place he undertook to carry on a general business for speculation and profit in the purchase or sale of culm dumps or coal lands or other coal properties. He denies that for a valuable consideration he at any time undertook to compromise litigation pending before the Interstate Commerce Commission. He denies that in furtherance of alleged efforts to compromise such litigation or in furtherance of alleged speculations in coal properties he willfully or unlawfully or corruptly or otherwise used his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co. or the Delaware, Lackawanna & Western Rairoad Co. or the Lackawanna & Wyoming Valley Railroad Co. or any other railroad company engaged in interstate commerce to enter into any contract or contracts or agreement or agreements in which he, the respondent, was financially interested, with Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, or any other person. He denies that in any contract in which he was interested relating to any purchase of proposed purchase from any railroad company of the character aforesaid he ever concealed or undertook to conceal such interest or connived at such concealment by any other person. He avers that so far as he is aware, in the few such cases in which he had such interest, that fact was disclosed not only to the officers and agents of the company concerned but to many other persons. Respondent further admits that in the very few cases in which he was interested in the proposed purchase of culm banks or other coal property from railroad companies he did not invest any money or other thing of value, except his own personal services, in consideration of any interest acquired or sought to be acquired by him. He avers that in association with others he rendered services in such cases, but he denies that in attempting to secure any such contract, agreement, or property he used or attempted to use his influence as such judge with the contracting parties thereto or any of them, and denies that he received any interest in any such contract, agreement, or property in consideration of such influence in aiding and assisting in securing same.

Respondent admits that in the year 1911, the Erie Railroad Co. and the Delaware, Railroad Co. were engaged in interstate commerce. Lackawanna & Wyoming Valley Railroad Co. was so engaged at any time during that period defendant does not know. And whether the other railroad companies referred to in said thirteenth article, but not named, were engaged in interstate commerce during said period respondent has no means of either admitting or denying, because he does not know to what other companies the thirteenth article refers. He admits that during the year 1911, and until April 15, 1912, the Erie Railroad Co. and the Delaware, Lackawanna & Western Railroad Co. from time to time had suits pending in the United States Commerce Court, and that other railroad companies during that time had suits pending in said court. Whether the suits referred to but not described in said article were pending at the time of the execution of the several contracts and agreements referred to but not described in said article the respondent can not say, for the reason that he has no means of knowing to what suits or to what agreements the article refers.

The respondent denies that from the 31st day of March, 1911, until the 15th day of April, 1912, or at any other times, he was continuously and persistently engaged in endeavoring to secure or in securing from said railroad companies or from any railroad companies contracts or agreements as charged in said thirteenth article.

Wherefore respondent denies that he was or is guilty of misbehavior as such judge and denies that he was or is guilty of misdemeanors of office as charged in said thirteenth article.

And this respondent, in submitting to this honorable Senate sitting as a court of impeachment his answer to the articles of impeachment exhibited against him, respectfully reserves the right to apply hereafter from time to time for leave to amend or add to the same when and as such amendment or addition may become essential to the proper presentation of the defense of the respondent to said articles of impeachment.

ROBERT W. ARCHBALD.

R. W. ARCHBALD, Jr.,
A. S. WORTHINGTON,
Of Counsel for Respondent.

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